

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-ALTMAN/REID

PIERCE ROBERTSON, *et al.*,

Plaintiffs,

v.

MARK CUBAN, *et al.*,

Defendants.

_____/

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL
THE UNREDACTED VERSIONS OF DEFENDANTS' MOTION FOR SANCTIONS
UNDER 28 U.S.C. § 1927 AND SUPPORTING EXHIBITS AND DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO FILE SECOND AMENDED
CLASS ACTION COMPLAINT BECAUSE THEY CONTAIN REFERENCES TO
CONFIDENTIAL INFORMATION**

Defendants MARK CUBAN and DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS, by and through undersigned counsel and pursuant to Southern District of Florida Local Rule 5.4(b)(1), file this Unopposed Motion for Leave to File Under Seal the Unredacted Versions of Defendants' Motion for Sanctions Under 28 U.S.C. § 1927 *and* Supporting Exhibits *and* Defendants' Opposition to Plaintiffs' Motion for Leave to File Second Amended Class Action Complaint Because they Contain References to Confidential Information (hereinafter "Motion to Seal"). As grounds therefor, Defendants state as follows:

1. Contemporaneously herewith, Defendants will be filing (i) a Motion for Sanctions Under 28 U.S.C. § 1927 and Memorandum of Law in Support Thereof (the "Section 1927 Motion"), (ii) exhibits in support of the Section 1927 Motion, and (iii) Defendants' Opposition to Plaintiffs' Motion for Leave to File Second Amended Class Action Complaint (the "Opposition"

and, collectively with the Section 1927 Motion and supporting exhibits, the “Confidential Filings”). The Confidential Filings contain references to information that has been designated by either side as Confidential under the Stipulated Protective Order entered by Magistrate Judge Reid on December 21, 2022. [ECF No. 65].¹

2. The Confidential Filings have consequently, for filing purposes, redacted the information the parties’ designated as Confidential and that is covered by the Stipulated Protective Order. *See* S.D. Fla. L.R. 5.4(b)(1); S.D. Fla. CM/ECF Rule 9B.

3. The at-issue protected as Confidential information consists of certain testimony taken at the depositions of two named Plaintiffs (Rachel Gold and Pierce Robertson), certain testimony from non-party Stephen Ehrlich’s deposition, and Plaintiffs’ Voyager account information and addresses, all of which have been designated as Confidential. For example, the Section 1927 Motion and the Opposition both disclose Plaintiff Rachel Gold’s text message and Facebook chat conversations with a friend who advised her on cryptocurrency matters, which Plaintiffs have designated as Confidential. The Section 1927 Motion also discloses relevant Voyager account information, which has also been designated as Confidential.

4. While the redactions are limited and most of the Confidential Filings will not be redacted, Defendants seek permission to file unredacted versions of the Confidential Filings under seal so that this Court is fully informed and has before it all relevant Confidential information prior to ruling on the Section 1927 Motion and Plaintiffs’ Motion for Leave to File Second Amended Class Action Complaint.²

¹ Various documents, or portions thereof, produced to date have been designated as Confidential.

² Pursuant to Paragraphs 6(e) and 7(d) of the Stipulated Protective Order, the “Court and any Court staff and administrative personnel” may view material designated as Confidential and Highly Confidential. [ECF No. 65: pp. 7-9].

5. The proposed duration of the requested sealing is for/until the later of (i) the parties consenting to unsealing of the information designated as Confidential, (ii) an unsealing of any of the information designated as Confidential pursuant to the terms of the Stipulated Protective Order.

6. Local Rule 5.4(b)(1) states that a party who wants to file documents and information under seal must file and serve electronically a motion seeking permission to file under seal. Such a motion must set forth the factual and legal basis for the requested sealing and describe with as much particularity as possible the documents and information to be sealed. *See* S.D. Fla. L.R. 5.4(b)(1).³

7. Where, as here, a party files a motion and other legal documents that need to include references to protected confidential information and those filings are the subject of a Local Rule 5.4(b)(1) motion to file under seal, all of the content sought to be filed under seal must be redacted until the Court has an opportunity to rule on the motion to seal. *See* S.D. Fla. L.R. 5.4(b)(1); S.D. Fla. CM/ECF Rule 9B.

8. Defendants' instant Motion to Seal and the redacted Confidential Filings are all in full compliance with Local Rule 5.4(b)(1) and CM/ECF Rule 9B.

WHEREFORE, Defendants MARK CUBAN and DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS respectfully request that the Court *grant* this Motion for Leave to File Under Seal and *permit* Defendants to file under seal the unredacted versions of the Confidential Filings.

³ However, a motion to file under seal cannot attach or reveal the specific "content of the proposed sealed material." *Id.* Additionally, the material to be sealed "shall not be filed unless the Court grants the motion to file under seal." *Id.*; *see* S.D. Fla. CM/ECF Rule 9A ("The proposed sealed material shall not be filed unless the Court grants the motion to file under seal.").

CERTIFICATE OF GOOD-FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movants/Defendants have today conferred via telephone conference with Plaintiffs' counsel in a good faith effort to resolve the issues raised in this Motion for Leave to File Under Seal and that Plaintiffs consent to the requested relief.

Respectfully submitted,

/s/ Christopher E. Knight

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 15, 2023, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I ALSO CERTIFY that the foregoing document is being served this day on all counsel of record on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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